

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNIVERSAL CITY STUDIOS, INC., :
:
Plaintiff, : 82 Civ. 4259 (RWS)
:
-against- : AFFIDAVIT
:
NINTENDO CO., LTD. and :
NINTENDO OF AMERICA, INC., :
:
Defendants. :
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State of Connecticut)
: ss.:
County of Hartford)

MICHAEL S. SCHWEFEL, being duly sworn deposes and says:

1. I am Senior Vice President and General Counsel of Coleco Industries, Inc. ("Coleco"), and I am fully familiar with the facts set forth herein. I have reviewed the affidavit of Arnold C. Greenberg dated April 20th 1983 and it is true and correct to the best of my knowledge, information and belief. I submit this affidavit to supplement the affidavit of Mr. Greenberg in certain respects.

2. At Mr. Greenberg's instructions, I was principally responsible for negotiating the settlement between Coleco and Universal City Studios, Inc. ("Universal") relating to the alleged infringement of King Kong by Donkey Kong.

3. Because of the imminent introduction of ColecoVision and the dependence of ColecoVision's success on the ability to market Donkey Kong without any cloud of litigation or threatened litigation, it was imperative for Coleco to seek to resolve the dispute as quickly as possible after the demand telex was received from Universal on or about April 29, 1982.

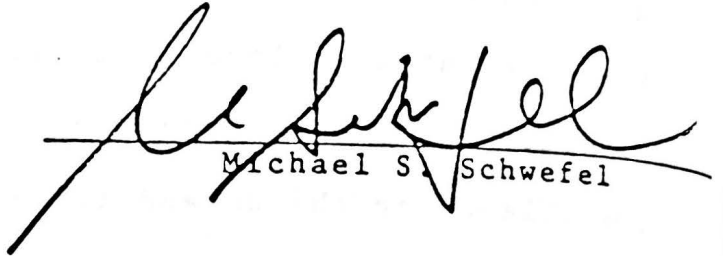
4. In short, while our attorneys advised us that any claim of infringement was weak and there was no opportunity to examine Universal's claim of rights in King Kong, it was necessary to negotiate a settlement simply on the basis of Universal's naked claim of ownership of King Kong and the threat of litigation which would have severely injured our business reputation and would have destroyed marketing plans which were critical to Coleco. I believe that Universal was fully aware that its threats of litigation put Coleco in an untenable position in the course of negotiations.

5. Apart from the amount of the royalty payment sought by Universal, the principal concern of Coleco in the negotiations was to ensure that Universal would take no action which would impair the marketability and free dissemination of Coleco's ColecoVision, which included the Donkey Kong cartridge, or the Donkey Kong cartridge made by Coleco in the Mattel or Atari formats.

6. It was expressly understood that Universal would not at that time seek a preliminary injunction against anyone with respect to Donkey Kong. It was also my understanding that if an injunction was ultimately sought against Nintendo, it would be sometime down the road after Coleco had started shipping its Donkey Kong Products to the available market.

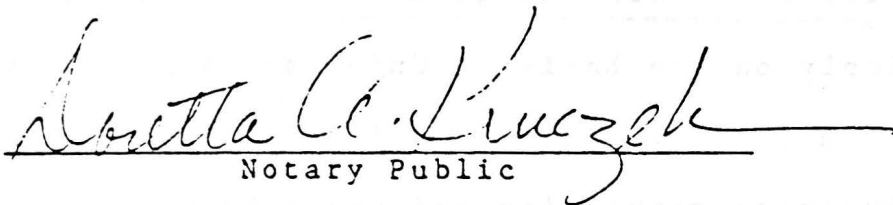
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Michael S. Schwefel

Sworn to before me this

20th day of April, 1983.


Notary Public